UNITED STATES PATENT AND TRADEMARK OFFICE

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UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

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Ex parte DAVID JAMES CLARKE, STEVEN J. MCCARTHY,
MICHAEL JACK ZAKHAROFF, and DARREN L. GARDNER

_____

Appeal 2009-005758
Application 10/787,515[1]
Technology Center 2100

_____

Before JOSEPH L. DIXON, LANCE LEONARD BARRY, and
JAY P. LUCAS, *Administrative Patent Judges.*

LUCAS, *Administrative Patent Judge.*

DECISION ON APPEAL[2]

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[1] Application filed February 26, 2004. The real party in interest is TeamOn
Systems, Inc.
[2] The two-month time period for filing an appeal or commencing a civil
action, as recited in 37 C.F.R. § 1.304, or for filing a request for rehearing,
as recited in 37 C.F.R. § 41.52, begins to run from the "MAIL DATE"
(paper delivery mode) or the "NOTIFICATION DATE" (electronic delivery
mode) shown on the PTOL-90A cover letter attached to this decision.

STATEMENT OF THE CASE

Appellants appeal from a final rejection of claims 1 to 5, 7 to 11, 13, 14, 16 to 19, and 21 under authority of 35 U.S.C. § 134(a). Claims 6, 12, 15, and 20 are cancelled. (Brief 2). The Board of Patent Appeals and Interferences (BPAI) has jurisdiction under 35 U.S.C. § 6(b).

We affirm the rejections.

Appellants' invention relates to an improved system and method for accessing data in various accounts, such as e-mail accounts. In the words of Appellants:

> [0002] Computer database systems are frequently used to store important data in an organized fashion. For example, a database may be used to store information relating to a particular account or user for easy access and retrieval. Such information may include user contact or profile information, electronic mail (e-mail) messages, etc.

> [0003] While databases are extremely useful for providing quick access to data, their effectiveness can potentially become diminished as the amount of data to be accessed grows. That is, for database systems in which thousands or even millions of customer records or e-emails are being stored, attempting to simultaneously store and/or access numerous records at the same time can create severe bottlenecks and, thus, diminish system performance.

> . . . .

> [0007] This and other objects, features, and advantages in accordance with the present invention are provided by a communications system which may include a plurality of account databases each for storing information associated with different accounts, and a central database for storing location

information associating each account with a respective account database. Additionally, the system may also include at least one communications device for accessing account information, and an interface device for receiving an account access request from the at least one communications device for a desired account. Moreover, the interface device may also be for retrieving account location information from the central database for the desired account, and interfacing the at least one communications device with the respective account database associated with the desired account based thereon.

[0008]   The interface device may also advantageously be for caching the account location information and using the cached account location information for subsequently interfacing the at least one communications device with the respective account database. As such, the interface device need not continually access the central database for account location information, which could lead to significant bottlenecks and system performance degradation. Further, since cached account location information is readily available when subsequent access to the desired account is requested, the respective account database may be accessed more quickly as well.

(Spec, ¶¶ [0002], [0003], [0007], and [0008]).

The following illustrates the claims on appeal:

Claim 1:

        1. A communications system comprising:

        a plurality of account databases each for storing information associated with different accounts;

        a central database for storing location information associating each account with a respective account database, and also for storing shared system setup information;

3

at least one communications device for accessing account information; and

an interface device for

receiving an account access request from said at least one communications device for a desired account,

retrieving account location information from said central database for the desired account, and interfacing said at least one communications device with said respective account database associated with the desired account based thereon, and

caching the account location information and using the cached account location information for subsequently interfacing said at least one communications device with said respective account database;

said interface device also retrieving and caching the shared system setup information for use in interfacing said at least one communications device with said respective account database.

The prior art relied upon by the Examiner in rejecting the claims on appeal is:

Hoover	US 5,560,005	Sept. 24, 1996
Rierden	US 5,978,577	Nov. 2, 1999
Smith	US 6,871,215 B2	Mar. 22, 2005

REJECTIONS

The Examiner rejects the claims as follows:

R1: Claims 1 to 3, 9, 10, 14, 17, and 18 stand rejected under 35 U.S.C. § 102(b) for being anticipated by Rierden.

R2: Claims 4, 5, 7, 8, 11, 13, 16, 19, and 21 stand rejected under 35 U.S.C. § 103(a) for being obvious over Rierden in view of Smith.

We will review the rejections in the order argued. We only consider those arguments that Appellants actually raised in the Brief. Arguments Appellants could have made but chose not to make in the Briefs have not been considered and are deemed to be waived. *See* 37 C.F.R. § 41.37(c)(1)(vii).

ISSUE

The issue is whether Appellants have shown that the Examiner erred in rejecting the claims under 35 U.S.C. § 102(b) and 35 U.S.C. § 103(a). The issue specifically turns on whether Rierden teaches caching account location information for subsequently interfacing a communications device in the manner claimed.

FINDINGS OF FACT

The record supports the following findings of fact (FF) by a preponderance of the evidence.

1. Appellants have invented a method and architecture for better accessing information in a large multiple database contain numerous accounts, such as e-mail accounts. (Spec. ¶ [0004]). A central database stores location information associating each account with an account database, for access by communication devices. (Spec. ¶ [0007]). A caching module associated with the central database optimizes access to frequently retrieved data. (Spec. ¶¶ [0008], [0009]).

2. The Rierden reference teaches subscriber management for a large database system, using a central database called a Data Directory Server (DDS). (Col. 4, ll. 12-30). X-Ref Servers contain information on where the data resides in the DDSs. (Col. 8, ll. 31-50).

PRINCIPLES OF LAW

Appellants have the burden on appeal to the Board to demonstrate error in the Examiner's position. *See In re Kahn*, 441 F.3d 977, 985-86 (Fed. Cir. 2006) ("On appeal to the Board, an applicant can overcome a rejection [under § 103] by showing insufficient evidence of *prima facie* obviousness or by rebutting the *prima facie* case with evidence of secondary indicia of nonobviousness.") (quoting *In re Rouffet*, 149 F.3d 1350, 1355 (Fed. Cir. 1998)).

"In reviewing the [E]xaminer's decision on appeal, the Board must necessarily weigh all of the evidence and argument." *In re Oetiker*, 977 F.2d 1443, 1445 (Fed. Cir. 1992).

"Unless the steps of a method actually recite an order, the steps are not ordinarily construed to require one. However, such a result can ensue when the method steps implicitly require that they be performed in the order written. In this case, nothing in the claim or the [S]pecification directly or implicitly requires such a narrow construction." *Altiris,Inc. v. Symantec Corp.*, 318 F.3d 1363, 1369 (Fed. Cir. 2003) (citing *Interactive Gift Express, Inc. v. Compuserve Inc.*, 256 F.3d 1323, 1342-43 (Fed. Cir. 2001)).

ANALYSIS

*Arguments with respect to the rejection
of claims 1 to 3, 9, 10, 14, 17, and 18
under 35 U.S.C. § 102(b) [R1]*

The Examiner has rejected the noted claims for being anticipated by Rierden. The Appellants demur, contending that "[i]n other words, the claimed invention caches the retrieved account location information after it is requested by the communications device, i.e. caching only what was needed in the past. Differently, the system of Rierden et al. loads the entire global table (…) from the X-REF server to the DDS at startup." (Brief 10, bottom) (underlines omitted). Further, "Appellants submit that for Rierden et al. to hypothetically meet the claimed feature, the DDS would need to access the X-REF server based upon a transaction request, complete the transaction request with the client, and subsequently cache the accessed portion of the global table for subsequent use in other future transactions." (*Id.* at 11, top). We understand, thus, that the Appellants are arguing that the sequence of the steps in the reference is not in the order recited in the claim.

The Examiner argues that in one embodiment of Rierden, it is stated "…upon receiving a client request, the DDS 150 submits a request to the XRef Server 170 in order to retrieve the necessary data." (Rierden, col. 9, ll. 11-13). (Answer 20, top.) This is read on the claim language in question to establish that the retrieval from cache takes place after the client sends a request. (*Id.*, middle).

We have reviewed the law and conclude that the order of steps does not matter in establishing an anticipation of the claims. It is well established that unless a claim specifically recites an order for the execution of steps of a

7

method, that claim will not be construed as requiring a specific order. (*See Altiris,Inc. v. Symantec Corp.* cited above.) Appellants' argument, therefore, is not relevant to the claims in this application, which we find do not contain a specific order of execution of the steps. The Rierden reference teaches the caching as claimed, and thus anticipates the claims of the Appellants as written.

We as such do not find that the Appellants have established error in the rejection R1.

*Arguments with respect to the rejection
of claims 4, 5, 7, 8, 11, 13, 16, 19 and 21
under 35 U.S.C. § 103(a) [R2]*

The Examiner has rejected the noted claims for being obvious over Rierden in view of Smith. Appellants rely on the same argument discussed above to show error in this rejection. (Brief 13, top). In view of the analysis above, we decline to find such error.

CONCLUSIONS OF LAW

Based on the findings of facts and analysis above, we conclude that Appellants have not shown that the Examiner erred in rejecting claims 1 to 5, 7 to 11, 13, 14, 16 to 19, and 21 under rejections R1 and R2, respectively.

DECISION

We affirm the Examiner's rejections [R1 and R2] of claims 1 to 5, 7 to 11, 13, 14, 16 to 19, and 21.

No time period for taking any subsequent action in connection with this appeal may be extended under 37 C.F.R. § 1.136(a)(1)(iv).

AFFIRMED

llw

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